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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Buechler et al.

Serial No.: 09/349,194

Filed: July 7, 1999

For: NOVEL METHODS FOR THE ASSAY OF
TROPONIN I AND T AND SELECTION OF
ANTIBODIES FOR USE IN IMMUNOASSAYS

Group Art Unit: 1641

Examiner: G. Gabel

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Restriction Requirement mailed May 24, 2000 ("Paper No. 6"),
please consider the following remarks.

RESPONSE TO RESTRICTION REQUIREMENT

The Examiner has divided the claims into three groups:

Group I: claim 1;

Group II: claims 55-84, 97-101, and 107-113; and

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Group III: claims 85-96, 102-106, and 114-133.

Applicants hereby elect group III, claims 85-96, 102-106, and 114-133.

Notwithstanding the foregoing, Applicants respectfully traverse this restriction and assert that the examination of groups II and III can be made without serious burden on the Examiner. Under present practice, there are two requirements for a proper requirement for restriction:

(1) The inventions must be independent ... or distinct as claimed...; **and**

(2) **There must be a serious burden on the examiner** if restriction is not required...

(MPEP 803, emphasis added).

No serious burden has been demonstrated, or indeed even alleged, in the restriction requirement. For example, with respect to both groups II and III, the instant claims describe methods that rely on antibodies that specifically bind to various troponin components present as troponin complexes. It does not appear that different searches will be required for these groups. Nor does it appear that a serious burden exists for the Examiner on other grounds.

In view of the foregoing, Applicants respectfully request that the Examiner withdraw the restriction requirement and consider the patentability of both groups II and III.



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CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and an early notice to that effect is earnestly solicited.

Respectfully submitted,
Brobeck, Phleger & Harrison LLP

Dated: 7/7/00

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